

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2700 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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B.U. ANTANI

Versus

UNION OF INDIA

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Appearance:

MR KAUSHAL J THAKER for Petitioners

MR J.D. Ajmera for Respondent No. 1, 2, 3, 4

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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 30/08/96

ORAL JUDGEMENT

The present petition requires a partial recognition. The petitioner Shri. B.U.Antani came to be appointed as the PPF Agent. The appointment was for a specified period which would come to an end on 1st January 1978. It appears that, after the said date there was no renewal of the agency. The communication at Annexure-A would go to show that the petitioner was

notified that, his agency stood terminated with effect from 1st January 1978 and therefore, he should return the Certificate of Authority issued in his favour. It was also notified to him by the said communication that, no commission could be payable to him for the period during which the agency was not valid due to the failure in getting the agency renewed in time.

Upon hearing learned counsel Mr. Kaushal Thaker for the petitioner and learned Addl. Central Government Standing Counsel Mr. J.D.Ajmera, it appears that the present petition requires a partial recognition as indicated above.

It is not in dispute that the agency which was granted to the petitioner came to be terminated with effect from 1st January 1978, and it was not renewed at that time. There is absolutely no scope for considering the question of renewal of the agency. This is especially so because the petitioner is no more and his heirs & legal representatives have been brought on record.

But, so far as the question of the recovery of an amount of Rs.4,206-45 is concerned, it requires to be appreciated that, even the communication at Annexure-A says very clearly that the original petitioner had worked from January 1978 to December 1979, though there was no valid renewal of the agency in his favour. The statement annexed to the above said communication would go to show that the deceased petitioner had worked and had collected the amounts under the scheme. It is therefore that, he had earned the commission in sum of Rs.4,206-45. It appears that, though the agency could not be validly renewed, the deceased petitioner had in fact worked for the above said period. When he had actually worked for the above said period and when the amounts collected by him came to be accepted under the scheme, it would be highly unjustifiable, if, now the heirs of the deceased petitioner are called upon to pay back the above said amount.

Therefore it appears that, now, though the principal prayer for the renewal of the agency cannot be countenanced, it would be appropriate if it is ordered that there should not be the recovery for the said amount against or from the present petitioners who are the heirs & legal representatives of the deceased original petitioner.

The petition succeeds to the above said extent

and the same is hereby accordingly allowed. Rule is made  
absolute accordingly.

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